

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2003-358

July 12, 2004

PUBLIC UTILITIES COMMISSION
Investigation of Compliance of Verizon
Maine with Amended 35-A M.R.S.A.
§ 7101-B

ORDER GRANTING PARTIAL
RECONSIDERATION;
REQUEST FOR FURTHER
COMMENTS

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

In this Order, we decide that we will reconsider a portion of our Order issued on June 8, 2004. Following comments from the parties, we will consider whether to change that Order to rescind the local rate increase that we authorized for the period June 1, 2004 to May 30, 2005 to allow Verizon to recover access revenue losses that will result from the first step (\$1.48 million) of a two-step access rate reduction that totals approximately \$2.96 million. We will not reconsider whether the total \$2.96 million access revenue loss constitutes an exogenous change.¹

II. BACKGROUND

Title 35-A M.R.S.A. § 7101-B requires local exchange carriers to reduce their access rates to the level of their interstate access rates that were in effect on January 1, 2003. In an order issued on December 2, 2003, we ordered Verizon to reduce its access rates in two steps. The first step was a reduction of \$1.48 million, which became effective on June 1, 2004. The second step will occur on May 31, 2005 and will be approximately the same amount as the first step. The alternative form of regulation (AFOR) for Verizon permits us to find that certain large revenue or cost changes are “exogenous.” Upon such a finding, we can order an adjustment to other rates. In the May 28 and June 8, 2004 Order (issued in two parts), we found that the total amount of the access rate reduction of approximately \$2.96 million constituted an exogenous change in revenues pursuant to the definition in prior AFOR orders. Because of this finding, the June 8, 2004 Order permitted Verizon to increase its local rates in two steps to compensate for the exogenous access revenue loss. Each local rate step increase was designed to offset the revenue effect of each of the two access rate reduction steps. On June 1, 2004, Verizon reduced its access rates by \$1.48 million and increased its local rates to produce the same amount of revenue that it lost because of the access rate reductions.

¹ Commissioner Diamond dissents from this aspect of the Order. See attached Separate Opinion.

On June 28, 2004, the Public Advocate filed a timely request for reconsideration of the June 8, 2004 Order, which we deny in part and grant in part.

III. PARTIAL DENIAL OF REQUEST

In the June 8, 2004 Order we decided that the full revenue loss of \$2.96 million would constitute an exogenous change, and we will not reconsider that decision. We also will not reconsider our decision that the revenue change was "totally outside the control of [Verizon]"² on the ground, argued by the Public Advocate, that Verizon had supported reductions in interstate access rates before the FCC.³ We rejected the identical argument, also raised by the Public Advocate, in *Public Utilities Commission, Investigation into Verizon Maine's Alternative Form of Regulation*, Docket No. 99-851, Order (June 25, 2001) at 17.

IV. PARTIAL GRANTING OF REQUEST; QUESTION PRESENTED

As discussed above, by May 30, 2005, pursuant to the requirements of 35-A M.R.S.A. § 7101-B (the access parity statute), Verizon must reduce its access rates by approximately \$2.96 million. Our December 2, 2003 Order allowed Verizon to phase in the reduction in two equal steps, on June 1, 2004 and May 31, 2005. It left open whether the access revenue loss would be an exogenous change under the AFOR. In the June 8, 2004 Order we decided that the revenue loss of \$2.96 million would constitute an exogenous change, and we will not reconsider that decision.⁴ During the year June 1, 2004 to May 30, 2005, however, Verizon will experience a loss of \$1.48 million, not \$2.96 million. Under the reconsideration, we will decide whether, for that time period, the loss is sufficiently large to constitute an exogenous change. In deciding that issue, we will apply the standard for whether a change is exogenous contained in our prior AFOR orders, also summarized in the June 8, 2004 Order.

We also need to consider, if we change our prior decision, how we would adjust rates to account for collection of the higher rate (\$0.27 per month for most lines) that has been in effect since June 1, 2004. If we eliminate the present rate increase, we seek an adjustment method that would minimize the total number of rate changes for Verizon customers.

We request the parties to provide us with comments on these issues.

² *Public Utilities Commission, Re: Investigation Into Regulatory Alternatives for the New England Telephone and Telegraph Company d/b/a NYNEX*, Docket No. 94-123, Order (May 15, 1995) at 55.

³ The access parity statute requires that intrastate access rates must be equal to interstate access rates that were in effect on January 1, 2004.

⁴ Regardless of our decision in this reconsideration, Verizon will be permitted to increase its local rates on May 31, 2005 to recover the full access revenue loss of approximately \$2.96 million.

Accordingly, we

1. REOPEN our Order of May 28 and June 8, 2004, and will RECONSIDER that portion of the Order that allows Verizon, during the period June 1, 2004 to May 30, 2005, to increase its local rates to recover the \$1.48 million access revenue loss resulting from the access rate reduction required by the Order of December 2, 2003;

2. ORDER that parties who wish to file comments on the issues described in this Order shall do so by July 26, 2004.

Dated at Augusta, Maine, this 12th day of July, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

Separate Opinion of Commissioner Diamond

I applaud and support the decision of my colleagues to grant reconsideration of that part of the Order that accords exogenous treatment to the \$1.48 million access rate reduction that became effective on June 1, 2004. I also agree with their decision not to reconsider the original order on the ground that the revenue change was not totally outside the control of Verizon. For the reasons stated in my dissenting opinion attached to the June 8, 2004 Order, however, I would reconsider the Commission's determination that the total \$2.96 million access revenue loss constitutes an exogenous change.

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.